

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 7421**

**BILL NUMBER:** HB 1264

**NOTE PREPARED:** Jan 4, 2003

**BILL AMENDED:**

**SUBJECT:** Tort Claims Against Governmental Entities.

**FIRST AUTHOR:** Rep. Avery

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill increases the combined aggregate liability of all governmental entities and public employees under the law concerning tort claims against governmental entities and public employees: (1) from \$300,000 to \$1,250,000 for injury to or death of one person in any one occurrence; and (2) from \$5,000,000 to \$10,000,000 for injury to or death of all persons in that occurrence.

**Effective Date:** January 1, 2004.

**Explanation of State Expenditures:** This bill will potentially increase the damage awards that governmental entities would pay as a result of successful lawsuits filed against the state and political subdivisions of the state and public employees. Under current law, damage awards cannot exceed \$300,000 for the injury to, or death of, one person in any one occurrence. This bill increases the damage award limit to \$1,250,000. It is estimated that increasing the individual claim limit could increase the state's annual tort claim liability by approximately \$2.3 M.

Increasing the maximum aggregate liability of the state from \$5,000,000 to \$10,000,000 for injury to or death of all persons in a single occurrence will also potentially increase the state's expenditures. However, the recent history of claims against the state suggests that the impact of this provision on state expenditures would be limited.

*Background Information:* Between FY 1996 and FY 2002, the state paid 18 tort claims valued between \$250,000 and \$300,000. Since these settlements were near the limit for tort claims paid by the state, it was assumed that these claims *might* be higher if the settlement cap were raised to \$1,250,000. The average settlement from these 18 cases equaled approximately 95.1% of the \$300,000 limit. The analysis assumed

that if the cap were raised, this group of claims would be paid the same percentage of the \$1,250,00 limit. This analysis did not assume that increasing the limit would cause a greater number of tort claims to be paid by the state.

It should be noted that the number and severity of claims paid by the state will vary from year to year. The Office of the Attorney General reports the amount of damages paid as a result of tort claims submitted and tort claim lawsuits filed against the State and by plaintiffs in tort and civil rights litigation in FY 2002 as approximately \$3.3 M.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** This bill could increase the damage awards that local entities would be required to pay as a result of a successful lawsuit. Under current law, damage awards cannot exceed \$300,000 for the injury to, or death of, one person in any single occurrence. This bill will raise the maximum award for the injury or death to one person from \$300,000 to \$1,250,000. The provisions will also increase local entities' maximum liability from \$5,000,000 to \$10,000,000 for injury to or death of all persons in a single occurrence.

**Explanation of Local Revenues:**

**State Agencies Affected:** Office of the Attorney General.

**Local Agencies Affected:** Counties, cities, and towns.

**Information Sources:** Jennifer Thuma, Legislative Counsel, Attorney General's Office, 233-6143; Auditor of State.

**Fiscal Analyst:** John Parkey, 317-232-9854